

Filed for intro on 01/22/98  
HOUSE BILL 2427 By  
Winningham

SENATE BILL 2789  
By Burks

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 50, relative to establishment of charter schools as part of the Tennessee program of public education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 50, is amended by adding Sections 2 through 19 of this act as a new, appropriately designated part.

SECTION 2. This part is known as and may be cited as the "Tennessee Charter School Act of 1998".

SECTION 3. **Findings, declarations relative to the establishment of charter schools.** The general assembly finds and declares that the establishment of charter schools as part of this state's program of public education can assist in the promotion of comprehensive educational reform by providing an opportunity for innovative educational approaches that may not be available in the traditional public school classroom. The general assembly further finds that charter schools offer the potential to improve pupil learning, increase the choices available to students and parents as they seek the best learning environment, free teachers from paperwork and rigid curricula to experiment with different and innovative learning methods, establish a new form of accountability for schools, make the school the unit for educational improvement, establish new professional opportunities for teachers, and provide for well-educated communities.

SECTION 4. **Charter school program established.**

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(a) The state board of education shall establish a charter school program which shall provide for the approval and granting of charters to charter schools pursuant to the provisions of this act. A charter school shall be a public school operated under a charter granted by the commissioner of education, which is operated independently of a local board of education and is managed by a board of trustees.

(b) The program shall authorize the establishment of not more than two hundred ten (210) charter schools during the forty-eight (48) months following the effective date of this act. The commissioner shall actively encourage the establishment of charter schools in urban districts with the participation of public institutions of higher education.

#### **SECTION 5. Establishment of Charter School**

(a) A charter school may be established by teaching staff members, parents with children attending the public schools of the district, or a combination of teaching staff and parents. A charter school may also be established by a public institution of higher education or a private, nonsectarian entity located within Tennessee if established in conjunction with teaching staff members and parents of children attending the schools of the district. Either parents or teaching staff must constitute a majority of the trustees of the school and the charter shall specify the extent to which the private entity or higher education institution shall be involved in the operation of the school. The name of the charter school shall not include the name or identification of any private entity, and the private entity shall not realize a net profit from the operation of a charter school. Parochial schools, private schools, or home education programs shall not be eligible for charter school status.

(b) A currently existing public school is eligible to become a charter school if the following criteria are met:

(1) At least fifty-one percent (51%) of the teaching staff in the school have signed a petition in support of the school becoming a charter school; and

(2) At least fifty-one percent (51%) of the parents or guardians of pupils attending that public school have signed a petition in support of the school becoming a charter school.

(c) An application to establish a charter school shall be submitted to the commissioner of education and a copy shall be submitted to the local board of education. The local board of education shall forward a recommendation to the commissioner of education within sixty (60) days of receipt of the application. Any rejection may be appealed to the state board of education. The state board shall render a decision within thirty (30) days of the date of the receipt of the application. If no decision is rendered, the decision of the commissioner shall stand as if no appeal had been filed.

(d) A charter school established within the first forty-eight (48) months following the effective date of this act, other than a currently existing public school seeking a charter pursuant to section 5(b) of this act shall not have an enrollment in excess of five hundred (500) students or greater than twenty-five percent (25%) of the student body of the school district in which the charter school is established, whichever is less.

**SECTION 6. Application for charter school.** The application for a charter school shall include, at a minimum, the following information:

(1) The identification of the charter applicant;

(2) The name of the charter school;

(3) The proposed governance structure of the charter school, including a list of the proposed members of the board of trustees, or a description of the minimum

qualifications and the method for the appointment or election of members of the board of trustees;

(4) The educational goals of the charter school, the focus of the curriculum to be offered, any distinctive instructional techniques to be employed and the methods of assessing whether students are meeting educational goals. At a minimum, charter school students shall be required to meet the same testing and academic performance standards as established by law and regulation for public school students;

(5) The admission policy and the criteria for evaluating the admission of students;

(6) The age or grade range of students to be enrolled;

(7) The school calendar and school schedule;

(8) The proposed qualifications for teaching staff;

(9) A description of procedures to be implemented to ensure significant parental involvement in the operation of the school;

(10) A description of, address for, and copies of inspection permits for the physical facility in which the charter school will be located;

(11) The financial plan for the charter school and the provisions which will be made for auditing; all charter schools shall maintain records sufficient for the commissioner to determine financial responsibility and compliance with rules and regulations of the state board of education;

(12) A full description of and justification for any waivers of regulations which the charter school will request;

(13) Such other information as the commissioner may require.

## **SECTION 7. Powers of Charter School.**

(a) A charter school established pursuant to the provisions of this act shall be a body corporate and politic with all the powers necessary or desirable for carrying out its charter program, including, but not limited to, the power to:

(1) Adopt a name and corporate seal; however, any name selected shall include the words "charter school";

(2) Sue and be sued, but only to the same extent and upon the same conditions that a public school district can be sued;

(3) Acquire real property from public or private sources, by purchase, lease, lease with an option to purchase, or by gift, for use as a school facility;

(4) Receive and disburse funds for school purposes;

(5) Make contracts and leases for the procurement of services, equipment and supplies; provided, however, that the contracting out of teaching services with nonpublic schools is prohibited;

(6) Incur temporary debts in anticipation of the receipt of funds;

(7) Solicit and accept any gifts or grants for school purposes;

(8) Have such other powers as are necessary to fulfill its charter and which are not inconsistent with this act or the requirements of the commissioner.

(b) The board of trustees of a charter school shall comply with the provisions of the Open Meetings Act, Title 8, Chapter 44, Parts 1 and 2, and maintain records that are open to public inspection pursuant to Sections 10-7-503 through 10-7-505.

**SECTION 8. Student admissions to charter school.** A charter school shall be open to all students on a space available basis and shall not discriminate in its admission policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, status as a handicapped person, proficiency in the English language, or any other basis that would be illegal if used by a local school district; however, a charter school may limit admission to a particular grade level or to areas of concentration of the school, such as mathematics,

science, history, language or the arts. A charter school may establish reasonable criteria to evaluate prospective students which shall be outlined in the school's charter.

**SECTION 9. Enrollment preference.** Preference for enrollment in a charter school shall be given to students who reside in the school district in which the charter school is located. A charter school shall not charge tuition to students who reside in the district or collect fees not permitted to be assessed by public school districts. Any student enrolled in a charter school shall be given the right to enroll in subsequent years unless the appropriate grade level is not offered at the charter school. To the maximum extent possible, and consistent with the school's charter and policies, admission and enrollment shall represent a cross section of the community's school-age population including racial and academic factors.

**SECTION 10. Location of charter school.** A charter school may be located in part of an existing public school building, in space provided on a public work site, in a public building, or any other suitable location. A charter shall not construct a facility with public funds.

**SECTION 11. Operation of charter school.**

(a) A charter school shall operate in accordance with its charter and the provisions of law and regulation which govern other public schools; except that, upon the request of the board of trustees of a charter school, the commissioner may exempt the school from state regulations concerning public schools, except those pertaining to testing, civil rights and student health and safety, if the board of trustees satisfactorily demonstrates to the commissioner that the exemption will advance the educational goals and objectives of the school while securing for students the best chance of attaining a superior education.

(b) A charter school shall comply with applicable state and federal anti-discrimination statutes.

**SECTION 12. Per-pupil payments to charter school.** The school district of residence of a student shall pay directly to the charter school for each student enrolled in the charter

school who resides in the district a presumptive amount equal to ninety percent (90%) of the state and local funds which would otherwise be expended on the student if the student had remained in the district of residence. At the discretion of the commissioner and at the time the charter is granted, the commissioner may require the school district of residence to pay directly to the charter school for each student enrolled in the charter school an amount equal to less than ninety percent (90%), or an amount which shall not exceed one hundred per cent (100%) of the local budget per pupil for the specific grade level in the district of residence. The district of residence shall make monthly payments to the charter school based upon an estimated current expenditure per pupil and an estimated roster of students; provided, however, that a final reconciliation of payments shall be made based upon actual current expenditures for the district of residence and the students in attendance during the third month of the school year. The amounts of payments and the frequency of payments shall be reported to the commissioner.

**SECTION 13. Transportation for students.** The students who reside in the school district in which the charter school is located shall be provided transportation to the charter school on the same terms and conditions as transportation is provided to students attending the schools of the district. Non-resident students shall receive transportation services pursuant to regulations established by the state board of education.

**SECTION 14. Authority of board of trustees; employees.**

(a) The board of trustees of a charter school shall have the authority to decide matters relating to the operations of the school including budgeting, curriculum, and operating procedures, subject to the school's charter. The board shall provide for appropriate insurance against any loss or damage to its property or any liability resulting from the use of the property or from the acts or omissions of its officers and employees.

(b) In the case of a currently existing public school which becomes a charter school pursuant to the provisions of subsection (b) of section 5 of this act, all

professional employees of the charter school shall be deemed to be members of a bargaining unit as defined in the applicable agreement in the schools of the local district. Professional employees shall be represented by the same majority representative organization as the employees covered by an agreement in the schools of the local district. The board of trustees shall reflect the acknowledgement of the bargaining unit in the charter. In the case of new charter schools, converted public schools or schools established in districts where there is no bargaining agreement with professional employees, the board of trustees of a charter school shall have the authority to employ, discharge and contract with necessary administrators, teachers and nonlicensed employees subject to the specific terms of the school's charter. The board of trustees may negotiate with employees or choose to offer the terms of any collective bargaining agreement already established by the local school district for its employees, but the board shall adopt, as a minimum standard, any health and safety provisions of a locally existing agreement. The charter school and its employees shall be subject to the provisions of the "Education Professional Negotiations Act" as set forth in Title 49, Chapter 5, Part 6. A charter school shall not set teacher salaries at a level lower than the salaries in effect in the school district in which the charter school is located.

(c) All classroom teachers shall hold appropriate Tennessee licenses. No individual shall be employed who has not been fingerprinted and who has not submitted to the criminal records check set out in Section 49-5-413.

(d) A tenured public school employee may request a leave of absence of up to three (3) years from a local board of education in order to work in a charter school. The approval of such leave requests shall not be unreasonably withheld. Employees on a leave of absence as provided herein shall remain in, and continue to make contributions to, their retirement plan during the time of the leave and shall remain enrolled in the health benefits plan of the district in which the charter school is located.

The charter school shall make any required employer's contribution to the district's health benefit plan.

(e) Charter school employees shall not accrue tenure in any public school system but public school employees on leave from a public school system shall retain tenure, if so applicable, and shall continue to accrue seniority, if so applicable, in the public school system. An employee of a charter school, not on leave from a public school district, shall be provided with annual contracts, hearing procedures prior to termination during the term of any contract, and relevant job security protections as may be provided by collective bargaining or the charter of the school. If bargaining does not occur, the charter shall specify clearly the job security and procedural protections to be afforded employees of the charter school.

(f) Any public school employee who leaves or is dismissed from employment at a charter school within three (3) years shall have the right to return to the employee's former position in the public school district which granted the leave of absence, provided that the employee is otherwise eligible for employment in the public school district.

**SECTION 15. Complaints to board of trustees.** Any individual or group may bring a complaint to the board of trustees of a charter school alleging a violation of the provisions of this act. If, after presenting the complaint to the board of trustees, the individual or group determines that the board of trustees has not adequately addressed the complaint, the individual or group may present that complaint in writing to the commissioner who shall investigate and respond to the complaint. The board of trustees may establish an advisory grievance committee consisting of both parents and teachers who are selected by the parents and teachers of the school to make nonbinding recommendations to the board concerning the disposition of complaints concerning admissions, grades, discipline, curriculum, and similar student issues.

**SECTION 16. Assessment and review of charter schools.**

(a) The commissioner shall annually assess whether each charter school is meeting the goals of its charter, and shall conduct a comprehensive review prior to granting a renewal of the charter. The local superintendent of the district in which the charter school is located shall have ongoing access to the records and facilities of the charter school to ensure that the charter school is in compliance with its charter and that state board regulations concerning assessment, testing, civil rights, student health and safety are being met.

(b) In order to facilitate the commissioner's review, each charter school shall submit an annual report to the local board of education, the local superintendent, and the commissioner in the form prescribed by the commissioner. The report shall be received annually by the local board, the local superintendent, and the commissioner no later than August 1. All such reports shall be available to the parent or guardian of any student enrolled in the charter school.

(c) Six (6) years following the effective date of this act, the commissioner shall submit to the governor and the general assembly a report on and an evaluation of the charter school program which shall include recommendations on the advisability of the continuation, modification, expansion, or termination of the program.

**SECTION 17. Granting, renewal of charter.** A charter granted by the commissioner pursuant to the provisions of this act shall be granted for a four-year period and may be renewed for additional four-year periods. The commissioner may revoke a school's charter if the school has not fulfilled any condition imposed by the commissioner in connection with the granting of the charter or if the school has violated any provision of its charter. The commissioner shall develop procedures and guidelines for the revocation and renewal of a school's charter.

**SECTION 18. Rules, regulations.** It shall be the duty of the state board of education to adopt any rules and regulations necessary to effectuate the provisions of this act.

SECTION 19. If any provision of this part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the part which can be given effect without the invalid provision or application, and to that end the provisions of this part are declared to be several.

SECTION 20. This act shall take effect upon becoming law, the public welfare requiring it.